

Official Form 17  
(12/04)

# United States Bankruptcy Court

Southern District Of New York

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In re:

MARKETXT HOLDINGS CORP., a/k/a  
T CORP TECHNOLOGIES, LLC,  
TRADESCAPE CORP. AND  
TRADESCAPE.COM, INC.,

Case No. 04-12078 (ALG)

Debtor.

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ALAN NISSELSON, as Chapter 11  
Trustee of MarketXT Holdings Corp., and  
The Official Committee of Unsecured Creditors,

Plaintiffs,

v.

Adv. No. 05-01268 (ALG)

EMPYREAN INVESTMENT FUND, L.P.,  
EMPYREAN GENERAL PARTNER, LLC,  
ASH MASTER FUND, II, LLC, ASH MASTER  
FUND II, L.P., ASH FUND LP f/k/a EMPYREAN  
FUND, LP, ASH FUND II LP, ASH CAPITAL,  
LLC f/k/a, ASH CAPITAL MANAGEMENT,  
ASH GENERAL PARTNER, LLC, ASH  
OFFSHORE FUND, LTD., ASH GENERAL  
PARTNER OFFSHORE, LTD.,  
and JOHN DOES 1 THROUGH 10,

Defendants.

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## **NOTICE OF APPEAL**

Empyrean Investment Fund, L.P., Empyrean General Partner, LLC, Ash Master Fund, II, LLC, Ash Master Fund, L.P., Ash Fund LP f/k/a Ash Capital Management, Ash General Partner, LLC, Ash Offshore Fund, Ltd., Ash General Partner Offshore, Ltd., and John Does 1 through 10, (collectively “the defendants”) appeal under 28 U.S.C. § 158(a) or (b) and pursuant to Fed. R. A. P. 3, the defendants hereby provide notice to the Court and plaintiffs that they intend to, and hereby do, lodge an appeal in the above captioned matter.

This appeal is from the “Final Judgment and Order”, dated November 9, 2007, allowing the Plaintiffs’ Motion for Summary Judgment as to the “Collar Transactions”, and from any and all adverse orders from which an appeal may lodge, and is intended to preserve each and every right to seek reversal of the aforesaid Final Judgment and Order available under the Rules of Procedure, the Law and the Constitution of the United States.

The names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their respective attorneys are as follows:

ALAN NISSELSON, as Chapter 11  
Trustee of MarketXT Holdings Corp.,  
by his attorney,  
Howard Simon, Esq.  
Windels Marx Lane & Mittendorf, LLP  
156 West 56th Street  
New York, New York 10019  
(212) 237-1000

*And*

The Official Committee of Unsecured Creditors  
by their attorney,  
Lester Kirshenbaum, Esq.  
Kaye Scholer LLP  
425 Park Avenue

New York, NY 10022  
(212) 836-8000

*Plaintiffs*

EMPYREAN INVESTMENT FUND et al

by their attorney,  
Jeffrey A. Denner, Esq.  
DENNER◆PELLEGRINO, LLP  
Four Longfellow Place, 35<sup>th</sup> Floor  
Boston, MA 02114  
(617) 227-2800

*Defendants*

Dated: November 16, 2007

Signed: \_\_\_\_\_ /s/ Jeffrey A. Denner (JD-8357) \_\_\_\_\_

Attorney Name: \_\_\_\_\_ Jeffrey A. Denner \_\_\_\_\_

Address: \_\_\_\_\_ DENNER◆PELLEGRINO, LLP \_\_\_\_\_

\_\_\_\_\_ 4 Longfellow Place, 35<sup>th</sup> Floor \_\_\_\_\_

\_\_\_\_\_ Boston, MA 02114 \_\_\_\_\_

Telephone No: \_\_\_\_\_ (617) 290-6556 \_\_\_\_\_

If a Bankruptcy Appellate Panel Service is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellant may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal. Any other party may elect, within the time provided in 28 U.S.C. § 158(c), to have the appeal heard by the district court.

*If a child support creditor or its representative is the appellant, and if the child support creditor or its representative files the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.*